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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/894,160	06/27/2001	David J. Metcalfe	XXT-053/D99821	5213

7590 11/02/2005

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EXAMINER	
THOMPSON, JAMES A	

ART UNIT	PAPER NUMBER
2624	

DATE MAILED: 11/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	09/894,160	METCALFE ET AL.	
	Examiner	Art Unit	
	James A. Thompson	2624	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 06 October 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: _____.

   Claim(s) rejected: 25-41.

   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. Since the proposed amendments to the claims correct the language of claim 35 to properly recite an apparatus rather than a method, and cancel claims that Applicant wishes to cancel, the **proposed amendments will be entered.** The rejections of claims 1-24 are now moot since claims 1-24 have been canceled. The rejections of claims 25-41 are maintained as set forth in the previous office action, dated 28 June 2005 and mailed 11 July 2005.

Response to Arguments

2. Applicant's arguments filed 28 October 2005 have been fully considered but they are not persuasive.

Regarding page 7, line 21 to page 8, line 6: Azumaya (US Patent 5,465,307) in no way teaches *away* from Applicant's claimed invention. While claim 1 of Azumaya does recite, among many other features, "a plurality of image processing devices for processing in parallel said image data from said scan reading means", this does not teach away from the claimed invention. Parallel processing is simply a way to process the data faster by splitting said data up into sections and processing the sections of data simultaneously on a plurality of different processors. This has nothing to do with whether or not the processing is performed as one-pass processing or two-pass processing. Parallel processing can be performed as one-pass, two-pass or any number-pass processing, with each processor performing said one-pass, two-pass or any number-pass processing on each respective segment of data. Applicant is

therefore respectfully invited to explain technically how Applicant believes parallel processing inherently requires single-pass processing. In fact, Azumaya clearly teaches two-pass processing, as discussed in the arguments regarding claim 36 on pages 6-7 of said previous office action. The first pass is a main-scan directional determination which is carried out to determine a provisional status/history of an aimed pixel (column 15, lines 43-50 of Azumaya). The second pass is a final status/history determination of said aimed pixel (column 15, lines 49-58 of Azumaya). This has been clearly set forth in said previous office action, and Applicant has not substantively addressed Examiner's arguments made therein. Finally, since Applicant refers to "multi-pass processing" instead of "two-pass processing", Examiner would like to point out that only two-pass processing has been claimed in the present claims. While two-pass processing is indeed a form of multi-pass processing, multi-pass processing can also imply, for example, three-pass or four-pass or seven-thousand-pass processing, which has not been claimed.

Applicant then recites portions of the present specification on page 7, line 30 to page 8, line 1 of Applicant's present arguments. However, this aspect of the specification is not present in the claims. Applicant is respectfully reminded that, although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The limitation that Applicant subsequently mentions ("the step of reviewing...") *as recited in claim 36*, is taught in Azumaya, specifically figure 21(c); figure 27(a); and column 16, lines

34-40 of Azumaya, as cited in the arguments regarding claim 36. Again, Applicant has not substantively addressed Examiner's arguments in this regard.

Regarding page 8, lines 7-21: Again, Applicant attempts to read portions of the specification into the claim language. Applicant is respectfully reminded that Examiner is required to give the broadest reasonable interpretation of the claims consistent with the specification (see MPEP §904.01). Furthermore, in response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., no such requirement of pre-selecting areas beforehand) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The steps of "determining a pixel tag...", "determining a pixel identifier...", and "forming line segments...", as specifically recited in claim 36, have been fully taught by Azumaya, as demonstrated on page 7, lines 3-14 of said previous office action.

Regarding page 8, line 23 to page 9, line 3: First pass processing and second pass processing is indeed found in Azumaya, as has been discussed in detail above. Furthermore, even assuming *arguendo* that claim 25 does not require pre-selecting any areas beforehand, there is nothing in claim 25 that claims or inherently requires that the any areas not be pre-selected. The actual limitations recited in claim 25 have clearly been met by Azumaya in view of Farber (US Patent

5,978,791), as clearly demonstrated on pages 13-16 of said previous office action.

Regarding page 9, lines 4-18: Applicant argues, with regard to claims 30 and 36, the same limitations as above. Thus, the same arguments apply.

Regarding page 9, line 19 to page 10, line 4: Applicant argues the same limitations as above with regard to claims 28 and 41. As Examiner has already demonstrated above, the limitations of claims 25 and 36 are indeed taught by the prior art of record and Applicant has not substantively addressed any of the rejections or prior art citations that Examiner has made in said previous office action.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James A. Thompson whose telephone number is 571-272-7441. The examiner can normally be reached on 8:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David K. Moore can be reached on 571-272-7437. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

James A. Thompson
Examiner
Art Unit 2624

28 October 2005

THOMAS D. [redacted]
PRIMARY EXAMINER